

Amendments to the Drawings:

The attached sheet of drawing includes proposed changes in red ink to Fig. 1.

Attachment: Annotated Fig. 1

REMARKS/ARGUMENTS

The Examiner has rejected the application under 35 U.S.C. § 102 as being anticipated by Shuler (U.S. Patent No. 6,142,172). The Applicant respectfully traverses.

Claims 1-3 were rejected under 35 U.S.C. §102 as being anticipated by Shuler. Anticipation "requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee." Hoover Group, Inc. v. Custom Metalcraft, Inc., 66 F.3d 299, 302, 36 U.S.P.Q.2d 1101, 1103 (Fed. Cir. 1995). "[P]rior knowledge by others requires that all of the elements and limitations of the claimed subject matter must be expressly or inherently described in a single prior art reference." Elan Pharms., Inc. v. Mayo Foundation for Medical Educ. & Research, 304 F.2d 1221, 1227, 64 U.S.P.Q.2d 1292 (Fed. Cir. 2002) (citing In re Robertson, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950 (Fed. Cir. 1999); Constant v. Advanced Micro-Devices, Inc., 848 F.2d 1560, 1571 7 U.S.P.Q.2d 1057, 1064 (Fed. Cir. 1988)). "The single reference must describe and enable the claimed invention, including all claim limitations, with sufficient clarity and detail to establish that the subject matter already existed in the prior art and that its existence was recognized by persons of ordinary skill in the field of the invention." Id. (citing Crown Operations Int'l, Ltd. v. Solutia Inc., 289 F.3d 1367, 1375, 62 U.S.P.Q.2d 1917, 1921 (Fed. Cir. 2002); In re Spada, 911 F.2d 705, 708 15 U.S.P.Q.2d 1655, 1657 (Fed. Cir. 1990)). See also PPG Indus., Inc. v. Guardian Indus. Corp., 75 F.3d 1558, 1566, 37 U.S.P.Q.2d 1618, 1624 (Fed. Cir. 1996) (emphasis added).

Claim 1 requires, in part, a freezeless wall hydrant comprising:

a valve seating element having a center bore,
a plug insert fixedly mounted in the center bore,
an elongated first fluid passage in the valve body,
a secondary fluid passageway in the plug insert and
a moveable valve element in the secondary fluid
passageway normally closing fluid passageway

In contrast, Shuler teaches a valve seating member 62 having a hollow center bore 66 and a rivet or screw 64 that extends through valve seating 62 to be rigidly secured by either friction or threads to the interior end of bore 50 of valve body 44 (col. 2, lines 62-65). As shown in Figs. 3 and 4, valve body element 86, which contains ball element 98, is positioned within valve body 44 with sleeve 92 near the end of screw 64 and not within the valve seating member 62. Thus, Shuler does not disclose a plug insert with a moveable valve element therein fixedly mounted in the center bore of the valve seating element as is required by claim 1. Accordingly, Shuler does not anticipate claim 1, or the claims that depend therefrom, and the Examiner's rejection, as a matter of law, cannot stand.

CONCLUSION

In view of the above amendments and remarks, Applicant believes claims 1-3 are in condition for allowance and respectfully requests allowance of such claims. If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone the undersigned at 515/558-0200.

Any fees or extensions of time believed to be due in connection with this amendment are enclosed herein; however,

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consider this a request for any extension inadvertently
omitted, and charge any additional fees to Deposit Account
No. 50-2098.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Zarley', with a stylized flourish at the end.

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